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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.  |
|--|-------------|----------------------|---------------------|-------------------|
| 10/537,751   | 06/06/2005  | John Watler Englert  | PU020491            | 5463              |
| 24498  | 7590        | 11/15/2006           | EXAMINER            |                   |
| THOMSON LICENSING INC.<br>PATENT OPERATIONS<br>PO BOX 5312<br>PRINCETON, NJ 08543-5312 |             |                      |                     | DESIR, JEAN WICEL |
| ART UNIT   |             | PAPER NUMBER         |                     |                   |
|  |             | 2622                 |                     |                   |

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                  |                         |
|------------------------------|----------------------------------|-------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b>           | <b>Applicant(s)</b>     |
|                              | 10/537,751                       | ENGLERT, JOHN WATLER    |
|                              | <b>Examiner</b><br>Jean W. Désir | <b>Art Unit</b><br>2622 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 8/23/06 (Amendment).

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 1-4 is/are allowed.

6)  Claim(s) 5-22 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 5-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimakawa et al (US 6,452,644).

#### **Claim 5:**

Shimakawa discloses:

“a tuner”, see Fig. 5 item 51;

“a source of operating power”, see Fig. 5 item 60;

“and a controller for causing the operating power to be applied to the tuner during a normal mode of operation of the apparatus and during a first portion of a standby mode of operation, and for causing the operating power to be removed from the tuner during a second portion of the standby mode of operation (see *Fig. 5 items 55, 60, 51, col. 7 lines 13-28, see also Fig. 6*), wherein said first portion of said standby mode of operation is less than 100 percent of the time duration of said standby mode of operation (*is inherent to Shimakawa's disclosure, because the standby mode of*

*Shimakawa has more than one portions, for instance datacast standby portion (first portion) and regular standby portion (second portion), therefore the first portion is less than 100 percent of the time duration of the standby mode”.*

Claims 6, 7 are disclosed, see col. 8 lines 26-27, col. 6 lines 15-16.

Claim 8 is disclosed, see col. 1 lines 40-41.

Claim 9 is disclosed, see col. 8 lines 26-27, col. 6 lines 15-16.

Claim 10 is disclosed, see col. 7 line 59.

**Claim 11** is rejected for the same reasons as claim 5.

Claims 12-16 are rejected for the same reasons as claims 6-10.

**Claim 17** is rejected for the same reasons as claim 5.

**Claim 18** is rejected for the same reasons as claim 5.

Claims 19-22 are rejected for the same reasons as claims 6-9.

### ***Response to Arguments***

3. Applicant's arguments have been fully considered but they are moot in view of the new ground of rejection necessitated by the amendment.

### ***Allowable Subject Matter***

4. Claims 1-4 are allowed.

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (571) 272 7344. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Ometz can be reached on (571) 272 7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*JWD*  
Nov. 1, 06



DAVID OMETZ  
SUPERVISORY PATENT EXAMINER